

REQUEST FOR COUNCIL ACTION

MEETING
DATE: 09-15-03

221

AGENDA SECTION: PUBLIC HEARINGS	ORIGINATING DEPT: PLANNING	ITEM NO. E-12
ITEM DESCRIPTION: Vacation Petition #03-06, by B & G Holding Corp. to vacate Public Right-of-Way. The applicant is requesting to vacate the public road right-of-way (11 Ave. NW) located adjacent to the north end of the Hillcrest shopping center. The public roadway is located east of Highway 52 and is adjacent to the Hillcrest shopping center.		PREPARED BY: Brent Svenby, Planner

September 9, 2003

Planning Department Recommendation:

See attached staff report dated August 21, 2003.

Staff recommends approval of the vacation petition as submitted with the following conditions:

1. Prior to the recording of the vacation, the applicant shall dedicate a utility easement for any utilities that will remain in the area after being vacated.
2. The vacation of the right-of-way shall not be recorded until MnDOT releases the temporary easement over 11th Avenue NW to the City of Rochester..

The Planning & Zoning Commission reviewed this vacation request at their August 27, 2003 meeting. The Commission recommended approval of the vacation petition subject to two conditions.

Mr. Burke moved to recommend approval of Vacation Petition #03-06 by B & G Holding Corp. with the staff-recommended conditions. Mr. Haeussinger seconded the motion. The motion carried 8-0.

Council Action Needed:

1. Following the hearing, if the Council wishes to proceed, it should instruct the City Attorney to prepare a resolution to approve a portion of the vacation petition as recommended by the City Planning and Zoning Commission.

Attachments:

1. Staff Report dated August 21, 2003.
2. Minutes of the August 27, 2003 CPZC meeting

Distribution:

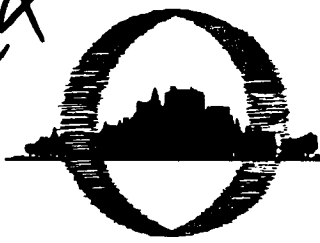
1. City Administrator
2. City Clerk
3. City Attorney: Copy of legal description is attached
4. Planning Department File
5. Applicant: the Council will consider this item sometime after 7:00 p.m. on Monday, September 15, 2003, in the Council/Board Chambers at the Government Center, 151 4th Street SE, Rochester, MN.

COUNCIL ACTION: Motion by: _____ Second by: _____ to: _____

16 ST NW

203

224

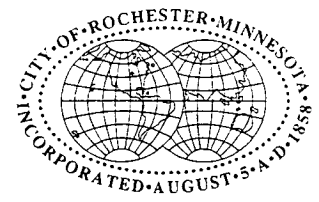


ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744

COUNTY OF
Olmsted

www.olmstedcounty.com/planning



TO: City Planning and Zoning Commission

FROM: Brent Svenby, Planner

DATE: August 21, 2003

RE: Vacation Petition #03-06, by B & G Holding Corp. to vacate Public Right-of-Way. The applicant is requesting to vacate the public road right-of-way (11 Ave. NW) located adjacent to the north end of the Hillcrest shopping center. The public roadway is located east of Highway 52 and is adjacent to the Hillcrest shopping center.

Planning Department Review:

Petitioner(s): B & G Holding Corporation
1300 Marion Road SE
Rochester, MN 55904

Petitioning to Vacate: The applicant is requesting to vacate the south half of 11th Avenue NW abutting the north end of the Hillcrest Shopping Center as shown on the attached plan.

Reason to Vacate: The applicant's reasons for vacating the south half 11th Avenue NW is that with MnDOT's right-of-way acquisition of land on the west side of the property for the ROC 52 project, the shopping center is in non-compliance with the Land Development Manual and Zoning Ordinance. With the right-of-way acquisition the shopping center lost 51 parking spaces. The applicant states that the loss of parking will have a major impact on the existing businesses as well as attracting new businesses.

Referral Comments: Department of Public Works
Qwest
MnDOT
RPU Water Division

Report Attachments:

1. Vacation Petition
2. Location Map
3. Referral Comment (4 letters)



Staff Recommendation:

Currently the Minnesota Department of Transportation has a temporary easement in place over this portion of 11th Avenue NW. This temporary easement cannot be release by MnDOT until all construction is complete and the work has been certified as final for this portion of the ROC 52 project. This means that the new frontage road, ramp system and removal of existing road need to be completed. Upon completion, the temporary easement will be released and the street will revert back to the City of Rochester.

The applicant is also asking the City to grant them the first right of refusal to acquire the north half of 11th Avenue NW as well as the remnant right-of-way parcel of the land located north of the existing 11th Avenue NW and south of the new TH 52 East Frontage Road.

Staff would recommend approval of this vacation petition but the vacation shall not be recorded until the temporary easement over 11th Avenue NW is released by MnDOT to the City of Rochester.

Staff is recommending approval of the vacation of this right-of-way subject to the following condition:

1. **Prior to the recording of the vacation, the applicant shall dedicate a utility easement for any utilities that will remain in the area after being vacated.**
2. **The vacation of the right-of-way shall not be recorded until MnDOT releases the temporary easement over 11th Avenue NW to the City of Rochester.**

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ROCHESTER

— Minnesota —

TO: Consolidated Planning Department
2122 Campus Drive SE
Rochester, MN 55904

DEPARTMENT OF PUBLIC
WORKS
201 4th Street SE Room 108
Rochester, MN 55904-3740
507-287-7800
FAX – 507-281-6216

FROM: Mark E. Baker

DATE: 8/15/03

The Department of Public Works has reviewed the application requesting Vacation #03-06 by B&G Holding Co. to vacate a portion of 11th Ave NW. The following are Public Works comments on the proposal:

1. The south ½ of the 11th Ave NW ROW can not be vacated until released by MnDOT to the City.
2. A Purchase Agreement needs to be executed that describes the method for determining the value and payment for purchase of the remnant land.



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August 11, 2003

Rochester-Olmsted
CONSOLIDATED PLANNING DEPARTMENT
2122 Campus Drive SE
Rochester, MN 55904-7996

REFERENCE: Vacation Petition #03-04 by B&G Holding Corp. to vacate a portion of 11th Ave. NW north of Hillcrest Shopping Center.

Dear Ms. Garness:

Our review of the referenced petition is complete and our comments follow:

1. A 20' minimum utility easement must be dedicated for the existing public water main in this area (a portion of which was relocated with the Hwy 52 reconstruction project).

Please contact us at 507-280-1600 if you have any questions.

Very truly yours,

Donn Richardson
Water

C: Doug Rovang, RPU
Mike Engle, RPU
Mark Baker, City Public Works
Vance Swisher, Fire Prevention Bureau
B&G Holding Corporation

ROCHESTER-OLMSTED PLANNING DEPARTMENT
2122 CAMPUS DRIVE SE - SUITE 100
ROCHESTER, MN 55904
PHONE (507) 285-8232
FAX (507) 287-2275

Date: July 28, 2003
To: Agencies Indicated Below
From: Jennifer Garness, Planning Department
Subject: Vacation Petition #03-06, by B & G Holding Corp. to vacate Public Right-of-Way. The applicant is requesting to vacate the public road right-of-way (11 Ave. NW) located adjacent to the north end of the Hillcrest shopping center. The public roadway is located east of Highway 52 and is adjacent to the Hillcrest shopping center.

This application is scheduled for consideration by the City Planning and Zoning Commission on August 27, 2003, in the Council/Board Chambers of the Government Center, 151 4th Street SE. In order for the Planning Department to prepare a thorough review of this application, we would appreciate receiving your comments by **August 15, 2003**. You may also appear at the meeting if you so desire. Your cooperation and assistance is greatly appreciated. *If you have comments, in addition to forwarding them to the Planning Department, please send a copy to:*

B & G Holding Corporation
1300 Marion Road SE
Rochester MN 55904

City Agencies Sent Via Email & Courier

1. Rochester Public Works
Richard Freese
rfreese@ci.rochester.mn.us
Mark Baker mbaker@ci.rochester.mn.us
2. Fire Department
Vance Swisher
vswisher@ci.rochester.mn.us
3. RPU Operations Division
Mike Engle mengle@rpw.org
4. RPU Water Division
Donn Richardson drichardson@rpw.org
5. Park & Recreation
Denny Stoltz dstoltz@ci.rochester.mn.us

County Agencies Sent Via Courier

6. County Public Works

Referrals Sent Via Mail

7. Qwest
Julie Schletty jschlet@qwest.com
8. School Board
Jeff Kappers
9. Post Office
Supervisor

Referrals Sent Via Email

- o Crime Prevention
Darrel Hildebrandt Gov. Center
dhildebrandt@ci.rochester.mn.us
- o Building Safety
Ron Boose rboose@ci.rochester.mn.us
- o City Attorney
Dave Goslee
dgoslee@ci.rochester.mn.us
- o Downtown Dev. Dist.
Doug Knott dknott@ci.rochester.mn.us
- o City Administration
Terry Spaeth tspaeth@ci.rochester.mn.us
- o Transportation Planners
 - Charlie Reiter
reiter.charlie@co.olmsted.mn.us
 - Muhammad Khan
khan.muhammad@co.olmsted.mn.us
- o John Hartford, Planning Dept.
Hartford.john@co.olmsted.mn.us
- o Health Department
Rich Peter peter.rich@co.olmsted.mn.us
- o GIS Division
 - Randy Growden
growden.randy@co.olmsted.mn.us
 - Bruce Whelstone
whelstone.bruce@co.olmsted.mn.us
- o Terry Lee lee.terry@co.olmsted.mn.us
Environmental Resource Services

Referrals Sent Via Email Continued

- o Aquila
Neal Clausen neal.clausen@aquila.com
- o Aquila
Rory Lenton rory.lenton@aquila.com
- o Brad Oberle
Charter Communications
boberte@chartercom.com
- o MN DNR
Bob Bizek bob.bizek@dnr.state.mn.us
- o SWCD
 - Floyd Whitaker
floyd.whitaker@mn.usda.gov
 - Dave Copeland
dave.copeland@mn.usda.gov
- o Peoples Coop
Rick Wellik rwellik@peoplesrec.com
- o Peoples Coop
Geneva Kellen gkellen@peoplesrec.com
- o Christine Schultze
cschultze@charterml.net
CUDE, Design Review Committee
- o Susan Waughtal Neighborhood
Organizer mrc@neighbors.org
- o MN DOT
Dale Maul dale.maul@dot.state.mn.us

* Qwest will agree to vacation of right of way with stipulation that an easement 20' in width maybe needed along 11 Ave NW and the East Frontage Road. Depending upon actual placement of new facilities for Hwy 52 relocations.

Don Kendall Qwest 507-285-3631



Minnesota Department of Transportation

Minnesota Department of Transportation - District 6

Mail Stop 060
2900 48th Street N.W.
Rochester, MN 55901-5848

Office Tel: 507-285-7366

Fax: 507-285-7279

E-mail: craig.hansen@dot.state.mn.us

August 7, 2003

Jennifer Garness
Rochester-Olmsted Planning Department
2122 Campus Drive SE - Suite 100
Rochester, MN 55904

**Re: Vacation Petition #03-06, by B & G Holding Corp. to vacate Public Right-of-Way. The applicant is requesting to vacate the public road right-of-way (11 Ave. NW) located adjacent to the north end of the Hillcrest shopping center. The public roadway is located east of Highway 52 and is adjacent to the Hillcrest shopping center.
C.S. 5508 (52=20) 901**

Dear Ms. Garness:

Vacation of 11th Avenue N.W. is subject to Minnesota Department of Transportation's (Mn/DOT's) release of the temporary easement currently in place. Mn/DOT cannot release the temporary easement until all construction is completed and the work has been certified as final for this location. This applies to all construction of the new frontage road, ramp system, and removal of the existing road. Upon completion and certification, the temporary easement in 11th Avenue will expire and the street will revert to the City of Rochester. The City of Rochester can then grant the petition to vacate.

If you have any questions, please contact me at 507/285-7366.

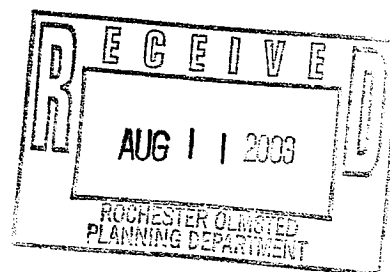
Sincerely,

A handwritten signature in cursive script that reads "Craig Hansen".

Craig Hansen
Engineering Specialist

cc: Nelrae Succio
Mark Trogstad-Isaacson
Terry Ward
Jon Chiglo
Dale Maul
File

CH:mc



Ms. Petersson moved to recommend approval of Annexation Petition #03-21 by Gene W. Ostrom as recommended by staff. Mr. Haeussinger seconded the motion. The motion carried 8-0.

VACATION RIGHT-OF-WAY:

Vacation Petition #03-06, by B & G Holding Corp. to vacate Public Right-of-Way. The applicant is requesting to vacate the public road right-of-way (11 Ave. NW) located adjacent to the north end of the Hillcrest shopping center. The public roadway is located east of Highway 52 and is adjacent to the Hillcrest shopping center.

Mr. Brent Svenby presented the staff report, dated August 21, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Mr. Svenby stated that the vacation would not be recorded until MnDOT releases the temporary easement, which could be 2-9 years from now.

Mr. Burke asked if there would still be access to 11th Avenue NW.

Mr. Svenby responded that there would be access to 16th Street NW and possible access to 11th Avenue NW at some point after the Highway 52 project was completed.

Ms. Rivas asked if they would have to show a site plan/parking plan after the vacation was completed.

Mr. Svenby responded yes.

Mr. Burke moved to recommend approval of Vacation Petition #03-06, by B & G Holding Corp. with the staff-recommended conditions. Mr. Haeussinger seconded the motion. The motion carried 8-0.

CONDITIONS:

1. Prior to the recording of the vacation, the applicant shall dedicate a utility easement for any utilities that will remain in the area after being vacated.
2. The vacation of the right-of-way shall not be recorded until MnDOT releases the temporary easement over 11th Avenue NW to the City of Rochester.

TYPE II CONDITIONAL USE PERMIT:

Type II Conditional Use Permit #03-47 by E & G Property LLC. The applicant is proposing to develop a drinking and eating establishment on Lot 3, Block 2, Circle 19 Plaza Second Subdivision, which is located in the M-1 (Mixed Commercial Industrial) zoning district. The property is located north of 19th Street NW and west of Superior Drive NW.

Mr. Brent Svenby presented the staff report, dated August 21, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Mr. Quinn asked if there would be one single building or two.